THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7548 OF 2006

DATED: 17-04-2006

BETWEEN

Tangudu Vishnu Murthy,

S/o. Rajulu,

R/o. Srikakulam Town,

Srikakulam District.

...PETITIONER

AND

The Commissioner,

Srikakulam Municipality,

Srikakulam.

...RESPONDENT

ORDER:

Learned counsel for the petitioner submits that the petitioner is the owner of the property bearing door No.7-3-27/9 situated on one way traffic road opposite to Head Office of Sri Visaka Grameena Bank in Sriakakulam town and after obtaining necessary permission vide BA.No.45/91 dated 28.02.1991 he constructed a shop on the

North-West corner of the said site. He further submits that later petitioner purchased another piece of the land from Pullella Gowri Sunderi and constructed another shop on the North Eastern side of the building facing one-way traffic road. At the time of construction an extent of 5 feet in front of the said shop abutting the road was also gifted in favour of the

respondent municipality for future road widening. While so, the municipal authorities visited the premises of the petitioner on 13.04.2006 and informed that the portion of the said building will be demolished on the ground that the petitioner encroached the municipal land.

I am not inclined to express any opinion as to the right, title and ownership of the petitioner over the said land and as to whether the petitioner constructed the building strictly in accordance with the sanctioned plan or not. However, even if petitioner has encroached any land or made unauthorized constructions or deviations it is for the respondent to issue a notice pointing out the encroachment or unauthorized constructions or deviations and call upon the petitioner to show cause as to why the said unauthorized structures/encroachments shall not be demolished. Upon such a notice, if the petitioner files an explanation it is for the respondent to consider the same and pass final orders in accordance with law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondent not to demolish the structures of the petitioner and not to dispossess him without following due process of law.

_____

V. ESWARAIAH, J

April 17, 2006

Note: Furnish C.C. of the order by 19.04.2006

(**B/o**)

DSK